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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,133	02/06/2004	Michael J. Christy	5096-0001	5099

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EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT PAPER NUMBER

3726

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/773,133	Applicant(s) CHRISTY, MICHAEL J.	
	Examiner Marc Jimenez	Art Unit 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 3 and 8-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fallgatter et al. (Des. 291760) in view of Gibran et al. (US6280369).

Fallgatter et al. teach a cylindrically-shaped main body (see figure 1) having a first end and a second end, first and second ball-shaped handles (see figure 3), wherein the main body is composed of a solid metallic substance.

Fallgatter et al. teach the invention cited with the exception of the handles being composed of a solid metallic substance.

Gibran et al. teach handles **18** that can be made of metal (col. 2, lines 10-12).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Fallgatter et al. with handles made of a solid metallic substance, in light of the teachings of Gibran et al., in order to provide a stronger and more durable handle. Note that Fallgatter et al. teach tapered portions on the main body close to the handles and the main body is constructed from a solid shaft of the metallic substance (see description, line 10).

Note that Gibran et al. teach that the metallic substance is stainless steel (col. 2, last line).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Fallgatter et al. with stainless steel, in light of the teachings of Gibran et al., in order to provide a rust resistant material.

Fallgatter et al./Gibran et al. teach the invention cited with the exception of the particular length, diameter and weight of the rolling pin.

At the time of the invention, it would have been an obvious matter of design choice to a person of ordinary skill in the art, to have used the claimed length, diameter and weight because applicant has not disclosed that the claimed length, diameter and weight provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with either the length, diameter and weight taught by Fallgatter et al./Gibran et al. or the claimed length, diameter and weight because either length, diameter and weight of rolling pin perform the same function of rolling dough equally well.

3. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Fallgatter et al. in view of Gibran et al. as applied to claim 1 above, and further in view of Kerr et al. (US1405920).

Fallgatter et al./Gibran et al. teach the invention cited above with the exception of the solid metallic substance being aluminum.

Kerr et al. teach that it is known to use aluminum materials (see title) for rolling pins.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the

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invention, to have provided the invention of Fallgatter et al./Gibran et al. with aluminum as the solid metallic substance, in light of the teachings of Kerr et al., in order to provide a balance of strength while maintaining a relatively light weight metal.

4. **Claims 4-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fallgatter et al. in view of Gibran et al. as applied to claim 1 above, and further in view of Gale (US1603683).

Fallgatter et al./Gibran et al. teach the invention cited above with the exception of the main body being powder coated.

It is noted that when kneading dough using a rolling pin, flour is coated on the surface of the rolling pin to provide a non-stick surface. For example, Gale teaches a main body that is powder coated (lines 83-86).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Fallgatter et al./Gibran et al. with a powder coating, in light of the teachings of Gale, in order to provide a non-stick surface.

5. **Claims 13 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fallgatter et al. in view of Kerr et al. and Gale.

Fallgatter et al. teach the invention cited above with the exception of the handles being aluminum.

Kerr et al. teach that it is known to use aluminum materials (see title) for rolling pins.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the

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invention, to have provided the invention of Fallgatter et al. with aluminum as the handle material, in light of the teachings of Kerr et al., in order to provide a balance of strength while maintaining a relatively light weight metal.

Fallgatter et al./Kerr et al. teach the invention cited above with the exception of the main body being powder coated.

It is noted that when kneading dough using a rolling pin, flour is coated on the surface of the rolling pin to provide a non-stick surface. For example, Gale teaches a main body that is powder coated (lines 83-86).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Fallgatter et al./Kerr et al. with a powder coating, in light of the teachings of Gale, in order to provide a non-stick surface.

6. **Claims 1 and 8-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Weinkle (US4815859) in view of Gibran et al.

Weinkle teaches a cylindrically shaped main body **14** having first and second ends, first and second ball shaped handles **20,22**, affixed to the first and second ends.

Although Weinkle teaches using a hard, rigid material (col. 1, lines 57-58), Weinkle does not specifically teach using metal for the handles and main body.

Gibran et al. teach using metal for handles (col. 2, lines 42-43) and a main body (col. 2, last line).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Weinkle with metal handles and main body, in light of the teachings of Gibran et al., in order to provide a rigid and durable material.

Gibran et al. teach using stainless steel (col. 2, last line). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Weinkle with stainless steel, in light of the teachings of Gibran et al., in order to provide a rust resistant material.

Weinkle/Gibran et al. teach the invention cited with the exception of the particular length, diameter and weight of the rolling pin.

At the time of the invention, it would have been an obvious matter of design choice to a person of ordinary skill in the art, to have used the claimed length, diameter and weight because applicant has not disclosed that the claimed length, diameter and weight provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with either the length, diameter and weight taught by Weinkle/Gibran et al. or the claimed length, diameter and weight because either length, diameter and weight of rolling pin perform the same function of rolling dough equally well.

7. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Weinkle in view of Gibran et al. as applied to claim 1 above, and further in view of Kerr et al. (US1405920).

Weinkle/Gibran et al. teach the invention cited above with the exception of the solid metallic substance being aluminum.

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Kerr et al. teach that it is known to use aluminum materials (see title) for rolling pins.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Weinkle/Gibran et al. with aluminum as the solid metallic substance, in light of the teachings of Kerr et al., in order to provide a balance of strength while maintaining a relatively light weight metal.

8. **Claims 4-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Weinkle in view of Gibran et al. as applied to claim 1 above, and further in view of Gale (US1603683).

Weinkle/Gibran et al. teach the invention cited above with the exception of the main body being powder coated.

It is noted that when kneading dough using a rolling pin, flour is coated on the surface of the rolling pin to provide a non-stick surface. For example, Gale teaches a main body that is powder coated (lines 83-86).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Weinkle/Gibran et al. with a powder coating, in light of the teachings of Gale, in order to provide a non-stick surface.

9. **Claims 13 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Weinkle in view of Kerr et al. and Gale.

Weinkle teaches the invention cited above with the exception of the handles being aluminum.

Kerr et al. teach that it is known to use aluminum materials (see title) for rolling pins.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Weinkle with aluminum as the handle material, in light of the teachings of Kerr et al., in order to provide a balance of strength while maintaining a relatively light weight metal.

Weinkle/Kerr et al. teach the invention cited above with the exception of the main body being powder coated.

It is noted that when kneading dough using a rolling pin, flour is coated on the surface of the rolling pin to provide a non-stick surface. For example, Gale teaches a main body that is powder coated (lines 83-86).

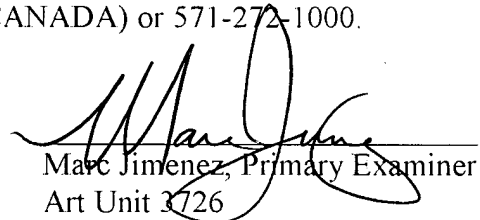
Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Weinkle/Kerr et al. with a powder coating, in light of the teachings of Gale, in order to provide a non-stick surface.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is (571) 272-4530. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Marc Jimenez, Primary Examiner
Art Unit 3726

MJ
7-24-06